

REMARKS**I. Status of the Claims**

Claims 41-50 and 61-101 are pending in the application. By this amendment, Claims 67 and 87 are amended, Claim 93 is canceled, and Claim 101, and 102 are new. Claims 64, 76, 78, 79, 87 and 88 are withdrawn but remain in the case.

The breakdown of the independent and associated dependent claims is as follows:

Claim 41 is an independent claim having dependent Claims 42 – 50, 61 – 66 and 101 - 102.

Claim 67 is an independent claim having dependent Claims 68 - 80.

Claim 81 is an independent claim having dependent Claims 82 – 92.

Claim 94 is an independent claim have dependent Claims 95 - 100.

II. Restriction/Election

Upon reviewing the election made previously in the case, Applicants have removed the “withdrawn” status from Claims 61, 63, 65, 66, which were erroneously identified as not reading on the elected species, but which each in fact recite a manner of improving a texture of skin.

III. Claim Objections

Claim 93 has been canceled, thus overcoming the objection to the claim.

IV. Claim Rejections

The claims stand rejected as being anticipated or made obvious by the teachings of U.S. 5,776,175 (Eckhouse et al).

(a) Claims 41 – 50, 61 – 66 and 101

Claim 41, as originally filed, includes the steps of

transmitting a *laser energy* into a target tissue, the laser energy including pulses of light having a fluence of 8 J/cm² and 20 J/cm², and a pulse width of in the range of approximately 100 μseconds and 3000 μseconds; and

heating the target tissue to a temperature of at least forty degrees Celsius.

The Eckhouse patent describes a flashlamp treatment for necrosing shallow tumors. While Eckhouse’s background section notes laser treatment as a prior art attempt to necrose

tumors, the patent identifies a light source having a broad controllable spectrum as superior to the prior use of the laser, because it allows the penetration depth of the energy to be tailored to the depth of the target tumor. More significantly, the Eckhouse patent lacks any teaching of the use of laser energy including pulses of light having a fluence of 8 J/cm² and 20 J/cm², and a pulse width of in the range of approximately 100 µseconds and 3000 µseconds. The treatment parameters disclosed in the reference are for use with a broadband flashlamp and not for use with a laser as claimed. Because the reference lacks any teaching of the method of Claim 41, Claims 41-50, 61 – 66 and 101-102 are patentable over the reference.

In addition, many features of the dependent Claims 42 – 50, 61 – 66 and 101-101 are not taught by Eckhouse et al and stand as additional grounds of patentability. Examples include the effects of the heating on skin as set forth in Claims 61 – 63 and 65 – 66 and 101. No such effects are identified in the Eckhouse patent which relates specifically to tumor treatment. Finally, Claim 102 recites that heating the target tissue heats target *skin* tissue to a temperature of at least forty degrees Celsius, whereas Eckhouse et al. heats tumor tissue, rather than skin tissue, to his disclosed target temperature.

(b) Claims 67 – 80 and Claims 81 -92

Claim 67, as amended, includes the steps of generating a plurality of pulses of laser light; directing the plurality of pulses of laser light to a surface of an area of tissue being treated; and wherein each pulse has a fluence of between approximately 8 J/cm² and 20 J/cm², and has a pulse duration of between approximately 100 µseconds and 1000 µseconds. Claim 81, as amended, recites providing a laser light source that outputs pulses of light having a fluence of greater than approximately 8 J/cm² and less than approximately 20 J/cm², and a pulse width of between approximately 100 µseconds and 1000 µseconds.

The methods of Claims 67 and 81 are neither taught by nor obvious from Eckhouse as discussed in connection with Claim 41. Accordingly, Claims 67 – 80 and 81 – 92 are patentable over Eckhouse et al.

(c) Claims 94 - 100

Original Claim 94 recites the steps of:

applying a light energy to a selected treatment area to heat the selected treatment area to a treatment pedestal temperature;
generating localized temperature spikes in a target tissue in the selected treatment area.

The Office Action does not identify, nor can Applicants find, teachings in the reference to anticipate or render obvious the steps set forth in Claim 94. For this reason, Claims 94 – 100 are allowable over the cited reference.

V. Conclusion

In view of the forgoing, all claims are allowable over the cited art. If for any reason the Examiner believes that a telephone conference would in any way expedite prosecution of the subject application, the Examiner is invited to telephone the undersigned at 415.772.4900.

Respectfully submitted,

STALLMAN & POLLOCK LLP

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By: Kathleen A. Frost
Kathleen A. Frost
Reg. No. 37,326

Attorneys for Applicant(s)